

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SKYLINE SOFTWARE SYSTEMS, INC.,

Plaintiff,

v.

KEYHOLE, INC., and
GOOGLE INC.

Defendants.

CIVIL ACTION NO. 04-11129 DPW

**DEFENDANTS' MOTION TO TAKE PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION OFF CALENDAR OR, IN THE ALTERNATIVE, TO
SET AN APPROPRIATE BRIEFING SCHEDULE**

REQUEST FOR SPECIAL ACTION – Local Rule 5.1(c)

Nelson G. Apjohn (BBO No. 020373)
NUTTER McCLENNEN & FISH LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210
(617) 439-2000
Fax: (617) 310-9000

Attorneys for Defendants and
Counterclaimants
KEYHOLE, INC. and GOOGLE INC.

Of Counsel
Darryl M. Woo, admitted *pro hac vice*
FENWICK & WEST LLP
Embarcadero Center West
275 Battery Street
San Francisco, CA 94111
Tel. (415) 875-2300
Fax (415) 281-1350

TO ALL PARTIES AND ATTORNEYS OF RECORD, PLEASE TAKE NOTICE that Defendants Keyhole, Inc. and Google Inc. hereby move this Court to take Plaintiff's Motion for Preliminary Injunction off calendar, or in the alternative, to set an appropriate briefing schedule.

Defendants respectfully request that the Court take Plaintiff's Motion for Preliminary Injunction off calendar on the grounds that the Motion on its face states no case for irreparable injury and rather is an improper attempt to introduce arguments and evidence that Plaintiff failed to present during claim construction, and to address issues the Court explicitly reserved for consideration until after a claim construction ruling. In the alternative, Defendants request that the Court set an appropriate briefing schedule on the Motion for Preliminary Injunction, whereby Defendants' Opposition would be due thirty days after issuance of a claim construction order. In the event that Defendants are required substantively to address Plaintiff's Motion for Preliminary Injunction, Plaintiff should be ordered make its principal declarant in support of its patent infringement charges, Dr. Terry Keating, Ph.D., available for deposition in the offices of Defendants' lead counsel.

This Motion is based on the accompanying memorandum of points and authorities, the accompanying Declaration of Darryl M. Woo, the record in this matter, and any other material the Court deems appropriate to consider. A proposed form of order is attached hereto as Exhibit A.

Due to the current schedule with respect to Plaintiff's Motion for Preliminary Injunction, Defendants request that Plaintiff be ordered to provide an expedited response or opposition to this Motion so that the Court will have the opportunity to resolve this issue by January 20, 2006, and allow the parties to proceed as required with this case.

CERTIFICATE PURSUANT TO LOCAL RULE 7.1(A)(2)

Pursuant to Local Rule 7.1(A)(2), counsel for Defendants called counsel for Plaintiff on January 5, 2006, in an attempt to meet and confer on the issues raised herein, but as more

fully set forth in the accompanying Declaration of Darryl M. Woo, counsel for Plaintiffs declined Defendants' request for the relief described therein.

Dated: January 9, 2006

Respectfully submitted,

By: /s/ Darryl M. Woo
Darryl M. Woo
FENWICK & WEST LLP
Embarcadero Center West
275 Battery Street
San Francisco, CA 94111
Tel. (415) 875-2300
Fax (415) 281-1350
email: dwoo@fenwick.com

Attorneys for Defendants and
Counterclaimants
KEYHOLE, INC. and GOOGLE INC.

Certificate of Service

I hereby certify that, on January 9, 2006, I caused a true and accurate copy of the foregoing document to be served upon all counsel of record for each party by complying with this Court's Administrative Procedures for Electronic Case Filing.

By: /s/ Darryl M. Woo
Darryl M. Woo